

**SUBSTITUTE FOR
HOUSE BILL NO. 4299**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 81131 (MCL 324.81131), as amended by 2011 PA
107.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 81131. (1) A municipality may pass an ordinance allowing
2 a permanently disabled person to operate an ORV in that
3 municipality.

4 (2) Subject to subsection (4), ~~the~~**A** county board of
5 commissioners ~~of an eligible county~~ may adopt an ordinance
6 authorizing the operation of ORVs on the maintained portion of 1 or
7 more roads located within the county. Not less than 45 days before
8 a public hearing on the ordinance, the county clerk shall send
9 notice of the public hearing, by certified mail, to the county road

1 commission, **TO THE LEGISLATIVE BODY OF EACH TOWNSHIP AND**
 2 **MUNICIPALITY LOCATED WITHIN THE COUNTY**, and, if state forestland is
 3 located within the county, to the department.

4 (3) Subject to subsection (4), ~~the township board of a~~
 5 ~~township located in an eligible county~~ **THE LEGISLATIVE BODY OF A**
 6 **TOWNSHIP OR MUNICIPALITY** may adopt an ordinance authorizing the
 7 operation of ORVs on the maintained portion of 1 or more roads
 8 located within the township **OR MUNICIPALITY, RESPECTIVELY**. Not less
 9 than 28 days before a public hearing on the ordinance, the ~~township~~
 10 clerk **OF THE TOWNSHIP OR MUNICIPALITY** shall send notice of the
 11 public hearing, by certified mail, to the county road commission,
 12 **TO THE LEGISLATIVE BODY OF EVERY OTHER TOWNSHIP AND MUNICIPALITY**
 13 **LOCATED WITHIN THE COUNTY**, and, if state forestland is located
 14 within the township, to the department. This subsection does not
 15 apply to a township **OR MUNICIPALITY** until 1 year after the
 16 effective date of the amendatory act that first ~~defined eligible~~
 17 ~~county so as to include~~ **AUTHORIZED** the county in which that
 18 township **OR MUNICIPALITY** is located **TO ADOPT AN ORDINANCE UNDER**
 19 **SUBSECTION (2)**.

20 (4) The board of county road commissioners may close a road to
 21 the operation of ORVs ~~under~~ **OTHERWISE AUTHORIZED PURSUANT TO**
 22 subsection (2) or (3) to protect the environment or if ~~the~~ **SUCH**
 23 operation of ORVs ~~under subsection (2) or (3)~~ poses a particular
 24 and demonstrable threat to public safety. A county road commission
 25 shall not under this subsection close more than 30% of the linear
 26 miles of roads located within the county to the operation of ORVs
 27 ~~under~~ **OTHERWISE AUTHORIZED PURSUANT TO** subsection (2) or (3). The

1 ~~LEGISLATIVE BODY OF A township board of a township located in an~~
2 ~~eligible county OR MUNICIPALITY~~ may adopt an ordinance to close a
3 road **LOCATED IN THE TOWNSHIP OR MUNICIPALITY** to the operation of
4 ORVs ~~under OTHERWISE AUTHORIZED PURSUANT TO~~ subsection (2). **THE**
5 **LEGISLATIVE BODY OF A VILLAGE MAY ADOPT AN ORDINANCE TO CLOSE A**
6 **ROAD LOCATED IN THE VILLAGE TO THE OPERATION OF ORVS OTHERWISE**
7 **AUTHORIZED BY THE TOWNSHIP PURSUANT TO SUBSECTION (3).**

8 (5) The legislative body of a municipality ~~located in an~~
9 ~~eligible county~~ may adopt an ordinance authorizing the operation of
10 ORVs on the maintained portion of 1 or more streets within the
11 municipality.

12 (6) Subject to subsection (4), if a local unit of government
13 adopts an ordinance pursuant to subsection (2), (3), or (5), a
14 person may operate an ORV with the flow of traffic on the far right
15 of the maintained portion of the road or street covered by the
16 ordinance. A person shall not operate an ORV pursuant to subsection
17 (2), (3), or (5) at a speed greater than 25 miles per hour or a
18 lower posted ORV speed limit or in a manner that interferes with
19 traffic on the road or street.

20 (7) Unless the person possesses a license as defined in
21 section 25 of the Michigan vehicle code, 1949 PA 300, MCL 257.25, a
22 person shall not operate an ORV **AS AUTHORIZED** pursuant to
23 subsection (2), (3), or (5) if the ORV is registered as a motor
24 vehicle under chapter II of the Michigan vehicle code, 1949 PA 300,
25 MCL 257.201 to 257.259, and either is more than 60 inches wide or
26 has 3 wheels. ORVs operated **AS AUTHORIZED** pursuant to subsection
27 (2), (3), or (5) shall travel single file, except that an ORV may

1 travel abreast of another ORV when it is overtaking and passing, or
2 being overtaken and passed by, another ORV.

3 (8) A person shall not operate an ORV **AS AUTHORIZED** pursuant
4 to this section without displaying a lighted headlight and lighted
5 taillight.

6 (9) A person under 18 years of age shall not operate an ORV **AS**
7 **AUTHORIZED** pursuant to this section unless the person is in
8 possession of a valid driver license or under the direct
9 supervision of a parent or guardian and the person has in his or
10 her immediate possession an ORV safety certificate issued pursuant
11 to this part or a comparable ORV safety certificate issued under
12 the authority of another state or a province of Canada. A person
13 under 12 years of age shall not operate an ORV **AS AUTHORIZED**
14 pursuant to this section. The requirements of this subsection are
15 in addition to any applicable requirements of section 81129.

16 (10) A township that has authorized the operation of ORVs on a
17 road under subsection (3) does not have a duty to maintain the road
18 in a condition reasonably safe and convenient for the operation of
19 ORVs. A board of county road commissioners, a county board of
20 commissioners, or a municipality does not have a duty to maintain a
21 road or street under its jurisdiction in a condition reasonably
22 safe and convenient for the operation of ORVs, except the following
23 ORVs:

24 (a) ORVs registered as motor vehicles as provided in the code.

25 (b) ORVs ~~permitted by an ordinance as provided in~~ **OPERATED AS**
26 **AUTHORIZED PURSUANT TO** subsection (1).

27 (11) ~~Beginning October 19, 1993, a~~ **A** board of county road

1 commissioners, a county board of commissioners, ~~and a county, are,~~
2 and, ~~beginning on April 25, 1995,~~ a municipality is, **ARE** immune
3 from tort liability for injuries or damages sustained by any person
4 arising in any way out of the operation or use of an ORV on
5 maintained or unmaintained roads, streets, shoulders, and rights-
6 of-way over which the board of county road commissioners, the
7 county board of commissioners, or the municipality has
8 jurisdiction. The immunity provided by this subsection does not
9 apply to actions that constitute gross negligence. As used in this
10 subsection, "gross negligence" means conduct so reckless as to
11 demonstrate a substantial lack of concern for whether an injury
12 results.

13 (12) In a court action in this state, if competent evidence
14 demonstrates that a vehicle that is permitted to operate on a road
15 or street pursuant to the code was in a collision with an ORV
16 required to be operated on the far right of the maintained portion
17 of a road or street ~~pursuant to an ordinance adopted under~~
18 ~~subsection (2), (3), or (5),~~ **UNDER SUBSECTION (6)**, the operator of
19 the ORV shall be considered prima facie negligent.

20 (13) A violation of an ordinance described in this section is
21 a municipal civil infraction. The ordinance may provide for a
22 ~~maximum~~ fine of not more than \$500.00 for a violation of the
23 ordinance. In addition, the court shall order the defendant to pay
24 the cost of repairing any damage to the environment, a road or
25 street, or public property ~~damaged~~ as a result of the violation.

26 (14) The treasurer of the local unit of government shall
27 deposit fines collected by that local unit of government under

1 section 8379 of the revised judicature act of 1961, 1961 PA 236,
 2 MCL 600.8379, and subsection (13) and damages collected under
 3 subsection (13) into a fund to be designated as the "ORV fund". The
 4 legislative body of the local unit of government shall appropriate
 5 revenue in the ORV fund as follows:

6 (a) Fifty percent to the county sheriff or police department
 7 responsible for law enforcement in the local unit of government for
 8 ORV enforcement and training.

9 (b) Fifty percent to the board of county road commissioners
 10 or, in the case of a city or village, to the department responsible
 11 for street maintenance in the city or village, for repairing damage
 12 to roads or streets and the environment that may have been caused
 13 by ORVs and for posting signs indicating ORV speed limits or
 14 indicating whether roads or streets are open or closed to the
 15 operation of ORVs under this section.

16 (15) As used in this section:

17 ~~—— (a) "Eligible county" means any of the following:~~

18 ~~—— (i) Oceana, Newaygo, Montcalm, Gratiot, Saginaw, Tuscola, or~~
 19 ~~Sanilac county or a county lying north thereof, including all of~~
 20 ~~the counties of the Upper Peninsula.~~

21 ~~—— (ii) St. Clair county.~~

22 (A) ~~(b)~~ "Local unit of government" means a county, township,
 23 or municipality.

24 (B) ~~(c)~~ "Municipality" means a city or village.

25 (C) ~~(d)~~ "Road" means a county primary road or county local
 26 road as described in section 5 of 1951 PA 51, MCL 247.655.

27 (D) ~~(e)~~ "Street" means a city or village major street or city

1 or village local street as described in section 9 of 1951 PA 51,
2 MCL 247.659.